

App. No. 10/692,288
Amendment Dated: June 1, 2005
Reply to Office Action of February 14, 2005

REMARKS/ARGUMENTS

In the Office Action mailed February 14, 2005, claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by David et al. (U.S. Patent Application Publication No. US 2004/0189669 A1). Claims 1 and 2 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over co-pending Application No. 10/402,322. Claims 7 and 17 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Claims 1, 7, 13 and 17 are amended. Claims 1-22 remain pending.

I. Rejections Under 35 U.S.C. 102(e)

Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by David et al. (U.S. Patent Application Publication No. US 2004/0189669 A1). The Applicant addresses the rejection in the arguments below.

An Examiner Interview was held between Examiner Santiago and Joshua Korver on May 25, 2005. Examiner Santiago gave an initial indication that amended independent claims 1 and 13 sufficiently distinguish the claimed invention from David et al.

By way of explanation, claim 1 recites "the visual system being configured to receive calls from both a program and a window desktop manager to construct a hierarchical data structure, wherein the hierarchical data structure corresponds to one of the program and the window desktop manager". The claimed invention builds off of the principles applied in David

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et al. and provides a “unified composition engine”. Where David et al. accepts calls from a program, the claimed invention two different composition engine functionalities and accepts calls from both a program and a window desktop manager.

Furthermore, claim 1 recites, “a notify queue that is configured to pass requests and notifications from the unified composition engine to the visual system.” The claimed invention therefore queues requests that go upstream to the visual system. The Specification recites, “if a resource realization that is required cannot be found or created a notification is queued via notify queue 410 to the client level 401.” (See Specification page 18, lines 5-8) In contrast, David et al. states that, “Downstream communication is queued, while upstream communication is not, to attempt to maximize the downstream capacity . . .” (David et al. paragraph 0095) (*emphasis added*)

Since each of the limitation distinguishes the claimed invention from David et al., David et al. does not anticipate claim 1. Amended claim 13 also includes limitations similar to claim 1. Claim 13 is therefore also not anticipated by David et al. Since claims 2-12 and 14-22 are dependent on claims 1 and 13 respectively, claims 1 and 13 are also not anticipated by David et al.

Double Patenting Rejection

The Office Action rejects the claims based on nonstatutory double patenting. A terminal disclaimer in compliance with 37 CFR 1.321(c) is being filed concurrently with this Amendment in accordance with the Examiner’s instructions provided in the Examiner Interview of May 25,

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2005. With the terminal disclaimer filed, Applicants respectfully submit that the nonstatutory double patenting rejection is overcome.

Rejections Under 35 U.S.C. § 112

Claims 7 and 17 have been amended to remove the confusing language that was not originally intended to be part of the claims. The amendment made is not intended to change the original scope of the claims. Please reconsider claims 7 and 17 with the language removed.

In view of the foregoing amendments and remarks, all pending claims are believed to be allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application, the Examiner is requested to contact the undersigned attorney for the applicant at the telephone number provided below.

Respectfully submitted,

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